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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench : Hon'ble Shri S.R. NAYAK, CJ

Writ Petition No.2514 of 2006

PETITIONER Gurudeep Singh Kasturia S/o Late Pratap Singh Kasturia aged about 39 years, R/o Sadar Bazar, Bilaspur (C.G)

Versus

RESPONDENTS

1. State of Chhattisgarh Secretary, Department of Transport, D.K.S. Bhawan Raipur (C.G.)
2. Regional Transport Authority, Chhattisgarh at Raipur

Present: Shri B.K. Rawat, learned counsel for the petitioner.

Shri Yashwant Singh, learned G.A., for the State/ respondent.

Shri A.K. Tiwari, learned counsel for the intervener.

ORDER
(Passed on 18th July, 2006)

I am of the considered opinion that having regard to the facts of this case the Regional Transport Authority, Chhattisgarh, at Raipur, the second respondent herein, is required to club the application of the petitioner with that of the intervener for grant of stage carriage permit on the route Bilaspur to Pandariya via Kota, Lormi and pass appropriate order.

(2) The facts which are not in dispute are the following:

In the month of July, 2005 the petitioner made an application for grant of stage carriage permit on the above route. His application was published by the second respondent on 17/07/2005 and the same was heard on 27/07/2005 and the second respondent reserved for the order.

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But, it appears that the second respondent without passing the order on 20/01/2006 reopened the case and adjourned the case to 09/03/2006 for further hearing. It needs to be noticed that the intervener too on 14/11/2005 made an application to the second respondent for grant of the stage carriage permit on the same route. On 09/03/2006, it appears that the second respondent heard the application of the petitioner only without clubbing the application of the intervener. When the matter stood thus, this writ petition was filed in this Court on 27/04/2006 praying for a direction to the second respondent to grant stage carriage permit as sought by the petitioner. The intervener having come to know about the pendency of the writ petition, filed I.A. No.5854 of 2006 to intervene in the matter and praying the Court to direct the second respondent to club the application of the petitioner with that of the intervener and pass appropriate order. That application of the intervener was ordered today separately by order of the Court.

(3) This Court has already ruled that if the jurisdictional Regional Transport Authority receives more than one application with regard to the grant of permits, whether regular or temporary, such applications should be clubbed, heard together and permit should be granted to a suitable person keeping in mind the public interest in general and the convenience of the commuters in particular. In that view of the matter, since the application of the intervener was also pending before the second respondent before 20/01/2006 for decision-making, the second respondent ought to have clubbed the application of the intervener with that of the petitioner and heard them together on 20/01/2006. The

procedure adopted by the second respondent was not in consonance with the law declared by this Court.

(4) However, Mr. B.K. Rawat, learned Senior Counsel appearing for the writ petitioner drawing the attention of the Court to sub-Section (1) of Section 58 of the Motor Vehicles Act, 1988 would contend that the second respondent ought to have considered the application made by him in the month of July, 2005 without delay and ought to have granted permit as sought by him, and merely, because, the second respondent did not pass the order on time and in the meanwhile, the intervener made the application after a lapse of more than five months from the date of application of the petitioner, that circumstance itself would not justify clubbing of the rival applications and passing a common order. It is true that when an applicant makes an application for grant of a permit of any kind, as per sub-Section (2) of Section 80 of the Act, the concerned Transport Authority is charged with a duty not to ordinarily refuse to grant such application for permit. But, that provision would not come to the aid of the petitioner in this case, because, this Court, assuming the role of an appellate authority or the role of original authority, cannot issue *mandamus* to the second respondent to grant the permit sought by him without considering the application of the intervener. Whether the petitioner is suitable or intervener for the purpose of grant of permit is a matter to be considered by the statutory authority like the second respondent and that power could not be usurped by the Court in exercise of the power of judicial review under Article 226 of the Constitution of India. Be that as it may, if there was delay on the part of the second respondent in pronouncing the order having heard the application of the

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petitioner and reserved for orders on 27/07/2005, the petitioner ought to have moved an application before this Court for a direction to the second respondent to pass appropriate order without much loss of time. The petitioner is also guilty of latches in that sense. The petitioner moved this Court only after 27/04/2006 by way of this writ petitioner, long after the intervener made the application for grant of permit on the same route. Looking from that angle, it is not a fit case to accede to the request of Shri Rawat.

(5) In the result and for the forgoing reasons, the writ petition is disposed of directing the second respondent to club the application of the petitioner with that of the intervener, hear them together and pass appropriate order in accordance with law. The second respondent is directed to dispose of the applications of the petitioner and the intervener within a period of one month from the date of receipt of a copy of this order. No costs.

Sd/-
Chief Justice